

**CORRECTIONS DEPARTMENT[201]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 904.804, the Department of Corrections amends Chapter 37, "Iowa State Industries," Iowa Administrative Code.

With these amendments, Iowa State Industries is correcting the filing of Adopted and Filed **ARC 2056C** (IAB 7/8/15) by rescinding its contents and restoring verbatim the text of Chapter 37 that was in effect prior to July 8, 2015.

Pursuant to Iowa Code section 17A.4(3), the Department of Corrections finds that notice and public participation are unnecessary because these amendments are corrective in nature. The amendments ensure the proper text appears in the Iowa Administrative Code.

In compliance with Iowa Code section 17A.4(3), the Administrative Rules Review Committee at its July 14, 2015, meeting reviewed the Department's findings and approved the Emergency adoption.

Pursuant to Iowa Code section 17A.5(2)"b"(2) as amended by 2015 Iowa Acts, House File 536, section 27, the Department of Corrections finds that the normal effective date of these amendments should be waived and these amendments made effective on August 12, 2015, as the amendments confer a benefit to the public by ensuring the proper text appears in the Iowa Administrative Code.

After analysis and review of this rule making, there is no fiscal impact.

These rules do not provide for waivers in specified situations. An agencywide waiver provision is provided in 201—Chapter 7.

These amendments were approved during the July 23, 2015, meeting of the Iowa Prison Industry Advisory Board.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 904.804.

These amendments became effective August 12, 2015, at which time the Adopted and Filed amendments of **ARC 2056C** are hereby rescinded.

The following amendments are adopted.

ITEM 1. Rescind subrule **37.2(5)**.

ITEM 2. Rescind rules 201—37.3(904) and 201—37.4(904) and adopt the following new rules in lieu thereof:

**201—37.3(904) Catalogs.** Catalogs are available at the following Iowa state industries locations:

1. Main office: Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319;
2. Des Moines sales/surplus: 2323 Dean Avenue, Des Moines, Iowa 50317;
3. Business office: 406 North High Street, Anamosa, Iowa 52205; and
4. Sales offices:
  - Anamosa: 406 North High Street, Anamosa, Iowa 52205; and
  - Ft. Madison: P.O. Box 316, Avenue E and First Street, Ft. Madison, Iowa 52627.

**201—37.4(904) Offices.** The main office for Iowa state industries is located in the Jessie Parker State Office Building, Capitol Complex, Des Moines, Iowa. The mailing address is Iowa State Industries, Jessie Parker State Office Building, 510 East 12th Street, Des Moines, Iowa 50319; telephone (515)725-5785. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

ITEM 3. Rescind rule 201—37.7(904) and adopt the following new rule in lieu thereof:

**201—37.7(904) Procurement of goods and services.** The provisions of 11—Chapter 105 are hereby adopted by reference with the following amendments.

1. Strike “Department of Administrative Services” and insert in lieu thereof “Iowa State Industries” in all rules except rule 11—105.10(8A), which pertains to procurement of information technology devices and services.

2. In lieu of the definitions of “Department” and “Director,” insert the following:

“Department” means the division of Iowa state industries.

“Director” means the director of the division of Iowa state industries or the director’s designee.

3. Rules 11—105.6(8A), 11—105.13(8A), and 11—105.15(8A) are not adopted.

4. In lieu of the text of subrule 105.14(1), insert the following: “Purchase of goods. An agency may acquire goods not otherwise available through a master agreement in accordance with the procurement threshold guidelines in 11—105.3(8A)”.

5. In lieu of the text of rule 11—105.20(8A), insert the following: “Appeal process. Vendors may appeal actions by Iowa state industries under these rules as follows:

“Step 1. Appeals shall be filed in writing to the Business Manager, Iowa State Industries, 406 North High Street, Anamosa, Iowa 52205, within five working days of notification of the action being appealed.

“Step 2. If the appeal is not resolved, it may be further appealed to the Director of Iowa State Industries, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ten working days of the notification of the Step 1 appeal response.

“Step 3. An unresolved appeal to the Director of Iowa State Industries shall be referred to the Director of the Department of Corrections, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ten working days of the notification of the Step 2 appeal response.”

This rule is intended to implement Iowa Code section 904.813.

ITEM 4. Rescind subrule 37.8(1) and adopt the following **new** subrule in lieu thereof:

**37.8(1)** Rules of procedure. The seven-member prison industries advisory board is represented by five appointees of the governor, one appointee of the parole board, and one appointee of the director, department of corrections. The principal duties of the advisory board are to promulgate and adopt rules and to advise the director, Iowa state industries, regarding the management of Iowa state industries.

a. A quorum shall consist of five members.

b. When a quorum is present, a position is carried by a majority of the members of the board.

c. The board shall meet at least once per calendar quarter. The meetings will be held at the seat of government unless notification is given otherwise. Other meetings shall be held at the call of the chairperson or of any three members when necessary for the board to discharge its duties.

(1) The communications media shall be notified at least two weeks in advance of board meetings.

(2) When it is necessary to hold an emergency meeting, the communications media shall be notified as far in advance of the meeting as time allows. The nature of the emergency shall be stated in the minutes.

d. Copies of the minutes are kept on file in the office of the director, Iowa state industries. Minutes are available from the director’s office to interested persons upon request. Organizations may request to be placed on a mailing list. Copies of administrative rules and other materials considered are made a part of the minutes by reference.

e. In cases not covered by these rules, Robert’s Rules of Order shall govern.

ITEM 5. Rescind rule 201—37.9(904) and adopt the following **new** rule in lieu thereof:

**201—37.9(904) Private sector employment projects.**

**37.9(1) Definitions.**

“Advisory board” means the prison industries advisory board.

“Deputy director of prison industries” means the department of corrections deputy director responsible for the day-to-day operations of prison industries including private sector individuals.

“Director” means the chief executive officer of the department of corrections.

“Workforce development board” means the state workforce development board.

“Workforce development director” means the chief executive officer of the department of workforce development.

**37.9(2) Preapplication requirement.** Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place a job order with a duration of at least 30 days with the nearest workforce development center. The job order will contain the prevailing wage determined by workforce development. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet Web site.

**37.9(3) Employer application.**

a. Private sector employers requesting offender labor must submit the following to the deputy director of prison industries:

- (1) Work program, including job description;
- (2) Proposed wage rate;
- (3) Description of job site;
- (4) Duration of the work; and
- (5) A copy of the job order listing with workforce development.

b. Upon receiving a written proposal to use offenders in a private sector work program, the deputy director of prison industries shall provide a copy of the private sector work proposal including job descriptions and proposed wages to the workforce development director.

c. The deputy director of prison industries shall send a letter to the department of workforce development requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders.

d. The deputy director of prison industries and the warden/superintendent at the proposed institution shall review the proposed projects with the board of supervisors and the sheriff in the county where the project will be located.

**37.9(4) Verification.** The workforce development director shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the deputy director of prison industries, in writing:

- a. Verification of the employer's 30-day job listing;
- b. The number of qualified applicant referrals and hires made as a result of the job order;
- c. The average wage rate for the proposed job(s);
- d. The wage range;
- e. The current unemployment rate for the county where the employer is located; and
- f. The current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available.

**37.9(5) Prevailing wages.** The deputy director of prison industries shall obtain employment levels in the locale of the proposed job(s) and the prevailing wages for the job(s) in question from the department of workforce development prior to authorizing any private sector work program. The deputy director of prison industries will consider the average wage rate and wage range from the department of workforce development for the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide. To reduce possible displacement of civilian workers, the deputy director of prison industries shall advise prospective employers and eligible offenders of the following requirements:

- a. Offenders shall not be eligible for unemployment compensation while incarcerated.
- b. Before the employer initiates work utilizing offender labor, the deputy director of prison industries shall provide the baseline number of jobs as established by the department of workforce development.

c. In January and July of each year, the deputy director of prison industries shall receive from the department of workforce development the actual number of civilian workers by employer and shall compile a side-by-side comparison for each employer. A copy of the side-by-side comparison will be provided to the advisory board and workforce development director semiannually.

**37.9(6) Ineligible projects.** The deputy director of prison industries shall evaluate the information from the department of workforce development to verify nondisplacement of civilian workers. Employment of offenders in private industry shall not displace employed workers, apply to skills,

crafts, or trades in which there is a local surplus of labor, or impair existing contracts for employment or services.

**37.9(7) Notification and review.**

a. The deputy director of prison industries shall provide a copy of the private sector work proposal and the department of workforce development review of the private sector work proposal to the following:

- (1) Governor's office;
- (2) Speaker of the house;
- (3) President of the senate;
- (4) Warden/superintendent at the proposed work site;
- (5) Local labor organization(s);
- (6) Director of workforce development; and
- (7) Department of Justice, Washington, DC.

b. Within 14 calendar days of receiving the department of workforce development review, the deputy director of prison industries will consolidate the recommendations for review and approval by the director of corrections.

**37.9(8) Prison industries advisory board review.**

a. Following approval by the director of corrections, the deputy director of prison industries shall forward the final proposal to the prison industries advisory board with the recommendation to approve or disapprove the work program, including all correspondence from the department of workforce development, the Department of Justice, and any local official who has offered comments.

b. The deputy director of prison industries shall provide written documentation to the prison industries advisory board confirming that the proposed work project will not displace civilian workers. If displacement occurs, the deputy director of prison industries shall advise the private employer that the employer will be given 30 days to become compliant or the department of corrections will terminate the use of offender labor.

**37.9(9) Disputes.**

a. Anyone who believes that the private sector work program violates this rule shall advise the department of workforce development. A written complaint may be filed in accordance with workforce development board rule 877—1.5(84A). The workforce development director shall consult with the deputy director of prison industries before the workforce development board makes a final recommendation(s) to resolve any complaint.

b. The deputy director of prison industries will assist the department of workforce development in compiling all information necessary to resolve the dispute. The workforce development board shall notify the deputy director of prison industries and interested parties in writing of the recommended action to resolve a complaint, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.809.

[Filed Emergency 7/27/15, effective 8/12/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/19/15.